

### REMARKS

In response to the Official Action mailed December 5, 2001, Applicants thank the Examiner for allowance of Claims 18, 20 and 21. However, Applicants respectfully request that the Examiner reconsider the rejection of the remaining claims.

The drawing stand objected to under on the grounds that FIGURE 1 is not labeled with designators for holes 101a,b. The Applicant has provided proposed red-lined changes to the drawings which Applicant believes will put the drawings in conformance with the specification.

Claims 2, 10-17 and 19 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter believed to be the invention. Applicants have amended Claims 2, 10, and 19 by removing the indefinite language "and derivatives thereof."

Claims 1, 2, 4, 5, 7, 10, 15, and 22-25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Mehra-Palta*, (U.S. Patent 4,417,417). Additionally, Claims 3, 6, 8, 9, 11-14, 16 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Mehra-Palta*., Applicants respectfully traverse these rejections in view of the amendments set forth above.

Applicants' methods, treatment compounds and treatment kits are directed to the problem of rescuing trees which have their root systems planted within soil. Among other things, Applicants' invention advantageously addresses the problem of treating established or adult trees whose root systems have been adversely impacted by changes in the surrounding environment. The claims have been amended to better capture the invention.

On the other hand, *Mehra-Palta* discusses techniques for cloning plantlets in a laboratory environment. The plantlets are treated in a test tube, petri dish or similar medium. It is not until the treatment is finished that the plantlets are transferred into

soil. In other words, *Mehra-Palta* is attempting to start new plants whereas Applicants are attempting to save already established plants within their soil environment.

No new matter has been added, merely amended to more particularly point out and distinctly claim the subject matter Applicants believe is inventive.


Applicants respectfully submit that the Claims as they now stand are patentably distinct over the allowed Claims of the parent application and the art cited during the prosecution thereof.

Upon Notice of Allowance of the this application for patent, Applicants will submit formal drawings to replace those originally submitted.

With the addition of no new claims, no additional filing fees are due. However, Applicants request a One Month Extension of Time To File Response as attached with small entity filing fees in the amount of \$55.00 along with the PTO/SB/17 fee transmittal sheet. Also, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account Number 23-2426 of WINSTEAD SECHREST & MINICK P.C.

If the Examiner has any questions or comments concerning this paper or the present application in general, the Examiner is invited to call the undersigned at (214) 745-5374.

Respectfully submitted,  
WINSTEAD SECHREST & MINICK P.C.  
Attorneys for Applicants

By:   
James J. Murphy  
Reg. No. 34,503

5400 Renaissance Tower  
1201 Elm Street  
Dallas, Texas 75270  
(214) 745-5374  
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APPENDIX – CLAIMS WITH CHANGES MARKED

1.(Amended) A method of treating an established distressed tree, a root system of the distressed tree planted in soil comprising the steps of:

creating a mixture comprising a fertilizer and a growth hormone; and

applying the mixture to a root area of the soil to treat the root system of the distressed tree.

2.(Amended) The method of Claim 1 wherein the growth hormone is selected from the group consisting of naphthalene acetic acid and 3-indolebutyric acid [, and derivatives thereof].

10.(Amended) A mixture for treating roots of an adult distressed tree, said roots planted within soil, comprising:

a fertilizer; and

a root growth hormone selected from the group consisting of naphthalene acetic acid, 3-indolebutyric acid, and wherein said fertilizer and said growth hormone are selected to be effective to treat said roots of said distressed tree within said soil [derivatives thereof].

19. (Amended) The method of Claim 18 and further comprising the step of forming the mixture comprising the substep:

selecting the root growth hormone from the group consisting of naphthalene acetic acid, 3-indolebutyric acid [, and derivatives thereof].

22. A kit for treating an established distressed tree having a root system disposed within soil comprising:

a mixture comprising a fertilizer and a growth hormone; [and]

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a container for holding the mixture; and.

a tool for applying the mixture to the root system within the soil.